

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0050P**

GIT and AGI - Penalty

For Calendar Years 1994, 1995, and 1996

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Tax Administration**—Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer was audited for calendar years 1994, 1995, and 1996. Upon audit it was discovered that the taxpayer failed to include income from interest, royalties, sales of business property, other income and dividend income in high rate gross income. The income was partially reported in 1994 and not reported in 1995 and 1996. Gross income tax adjustments consisted of 39%, 68%, and 63% for 1994, 1995, and 1996 respectively. In 1994, taxpayer paid adjusted gross income tax which was also adjusted by over \$500,000 and SNIT for over \$600,000. Other adjustments were made at audit including the apportionment factor, the inclusion of a subsidiary in the consolidated return, and non-business income.

Taxpayer protests the penalty and states that reasonable cause exists because it has always exercised due diligence in complying with the state of Indiana's income tax rules and has always had a cooperative spirit in dealing with its auditors. In addition, taxpayer states that the records show that it has not incurred any penalties for any of the years prior and for these reasons requests the penalty abatement.

I. **Tax Administration**—Penalty

**DISCUSSION**

0220000050P.LOF

PAGE #2

Taxpayer states reasonable cause exists because it has always exercised due diligence in complying with the income tax rules and has always had a cooperative spirit in dealing with auditors.

Taxpayer was assessed a negligence penalty because it failed to properly report gross income, the assessment that consisted of approximately fifty percent (50%) of the tax due. The issue was present in a prior audit completed on August 30, 1996 and the taxpayer has not provided reasonable cause.

The department finds that a negligence penalty is proper.

**FINDING**

Taxpayer's protest is denied.

DSW/RAW/JMS/dw 001802